

## **REMARKS**

### **I. OVERVIEW**

In the Notice of Non-Compliant Response, the Examiner stated that the claims were not provided with a proper status identifier, and that the Applicants state that at page 16, "please add the following new Claims 34-39", however status of Claims 34-39 are not marked as new.

With this Response, the Applicants have amended the claims to overcome these issues.

In a previous Responses to this Official Action, the Applicants have amended the Specification, submitted new drawings, and has provided arguments to overcome the Examiner's objections and rejections.

These other Responses are hereby incorporated by reference into this Response. Copies of these are not enclosed however, as these materials are already in the file history of the application with the Office at least once, and in some cases, twice. As such, Applicants do not believe that these Responses and other amendments needed to be re-submitted at this time.

### **II. Examiner's Questions Relating to the Proper Status Identifiers**

In all of the claims submitted in the last Response, the Applicants used the terminology that is set forth in Section 4(c) of the Notice of Non-Compliant Amendment. The only possible variation, is that some claims are marked as (Withdrawn-Previously Presented) or (Withdrawn-Original).

These status identifiers were used, because they are the only accurate identifiers of the particular claims to which they are appended. However, as "Withdrawn-Previously Presented Claims 13-15, 17, 22 and 32) are not among the Office's acceptable descriptors, the Applicant

has labeled all of the claims as “Withdrawn”, as that is believed to be the most accurate descriptor among those available.

The particular claims that are listed as “Withdrawn” were elected out of the Application pursuant to a restriction requirement posed earlier. In the restriction requirement wherein the Applicants were required to elect a particular Species, it was pointed out that these claims could be allowable, if a generic claim covering these Species was later found to be allowable.

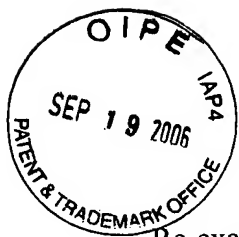
On page 16 of the Claims, between Claims 33 and 34, the Applicants have removed the phrase “Please add the following new Claims 34-39”. However, the Applicants have not changed the status of Claims 34-39.

In the Response at question, Claims 34-39 were correctly identified as being either “Previously Presented” or “Currently Amended”. Claims 34-39 are not new claims. Rather, these claims were first presented in an earlier Response.

The incorrect statement in the case, rather was the notation to “Please add new Claims 34-39”. It is believed that this phrase found its way into the Response due to Applicants’ “cutting the claims” from a previous Response to an Official Action and pasting them into the Response at issue. As such, the phrase “please add new Claims 34-39” is incorrect, and not the status of the claims.

With these changes and explanation, it is believed that the Response is now compliant, and in condition for consideration by the Examiner.

### **III. Summary**



Applicants believe that the present application, as amended, is in condition for allowance. Re-examination and reconsideration, culminating in the allowance of all claims, in due course, is respectfully requested.

If the Examiner has any questions relating to this Amendment, or would like to discuss any issues about this case with the Applicants' Attorney, she is respectfully requested to contact the Applicants' Attorney, E. Victor Indiano, at (317) 822-0033, or via e-mail at [Vic@IPLawIndiana.com](mailto:Vic@IPLawIndiana.com).

#### **IV. Request for Extension of Time**

If necessary, Applicants request that this Response be considered a request for an extension of time for a time appropriate for the response to be timely filed. Applicants request that any required fees needed beyond any submitted with this Response, be charged to the account of **E. Victor Indiano, Deposit Account Number 50-1590**.

Respectfully submitted,

E. Victor Indiano  
Reg. No. 30,143

cc: Kevin Burrow  
Dennis Irlbeck  
John Moenning  
Thomas McGrail

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